

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Elizabeth E. Babb)
 Ward 080, Block 023, Parcel L00082) Shelby County
 Residential Property)
 Tax Years 2005 & 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$299,100	\$1,187,900	\$1,487,000	\$371,750

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on June 6, 2007 and June 19, 2007 in Memphis, Tennessee. The taxpayer was represented by Harry J. Skefos, Esq. and Clay Purdom, Esq. The assessor of property was represented by staff appraiser Jonathan Jackson.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an 8,188 square foot residence situated on approximately one acre in a gated community located at 5862 Gardens Reach Cove in East Memphis. Subject residence was constructed in 1989 and has a dryvitt exterior façade.

The taxpayer contended that subject property should be valued at \$1,040,000. In support of this position, the testimony and appraisal report of Joe F. Burrow was introduced into evidence. Mr. Burrow essentially considered three comparable sales and concluded they support a value indication of \$1,040,000 after adjustments.

The assessor contended that subject property should be valued at \$1,421,300. In support of this position, the testimony and analysis of staff appraiser Jonathan Jackson was offered into evidence. Mr. Jackson also considered three comparable sales which were adjusted for various factors. Mr. Jackson concluded that the comparables support a fair market value indication of \$1,421,300.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$1,250,000 based upon the collective proof. As will be discussed below, the administrative judge finds that three of the five sales considered

by the appraisers have probative value and support a correlated market value indication of \$1,250,000.

The administrative judge finds that the primary area of disagreement between Messrs. Burrow and Jackson concerned whether subject property experiences a loss in value due to its dryvitt exterior and functional utility. The later issue stems from the fact subject home contains three-plus levels with an elevator.

Respectfully, the administrative judge finds subject property does, in fact, experience a diminution in value due to both factors. The administrative judge finds Mr. Burrow's testimony supports the conclusion that homes with exterior dryvitt facade have experienced "a somewhat negative market acceptance" in recent years. Similarly, the administrative judge finds an adjustment for functional utility appropriate given Mr. Burrow's testimony concerning the fact one and two-story residences possess greater market appeal than a three "plus" story home which will require many potential buyers to utilize the elevator.

Turning first to Mr. Burrow's comparable, the administrative judge finds that sale #2 is located outside the gated community and therefore lacks probative value. The administrative judge finds that sale #3 was an estate sale and also lacks probative value. The administrative judge finds that the estate sale brought only \$815,000 whereas the same property sold the prior year for \$1,100,000. The administrative judge finds that if the prior sale is used rather than the estate sale, a value indication of \$1,293,900 results assuming Mr. Burrow's adjustments are superimposed on the earlier sale.

The administrative judge finds that sale #1, 441 River Oaks North, has significant probative value. The administrative judge finds that it supports a value indication of \$1,139,300 if Mr. Burrow's adjustments are adopted in whole.

With respect to Mr. Jackson's comparables, the administrative judge finds that sale #1 cannot receive any weight until the square footage issue is resolved. The administrative judge finds Mr. Jackson assumed this home contains 7,450 square feet based upon Chandler Reports. Yet, in prior years and currently (2007) the assessor's records reflect 8,179 square feet.

The administrative judge finds that Mr. Jackson's sales #2 (441 River Oaks N.) and #3 both have probative value. However, the administrative judge finds sale #2 should be adjusted for functional utility by \$40,000 based upon Mr. Burrow's unrefuted estimate. The administrative judge finds that sale #3 should be adjusted by \$85,000 as contended by Mr. Burrow to account for subject property's inferior functional utility and dryvitt exterior. The administrative judge finds that the foregoing adjustments result in value indications of \$1,166,400 and \$1,336,300 for Mr. Jackson's sales #2 and #3 respectively.

In summary, the administrative judge finds that both appraisers utilized the sale of the home located at 441 River Oaks N. The administrative judge finds that the foregoing discussion results in value indications of \$1,139,300 (Burrow) and \$1,166,400 (Jackson) for that particular property. The administrative judge finds that Mr. Jackson’s sale #3 supports a value indication of \$1,336,300 for the reasons discussed immediately above. The administrative judge finds that if the prior sale of Mr. Burrow’s comparable is considered, an adjusted value indication of \$1,293,900 results.

The administrative judge finds that the foregoing analysis results in value indications ranging from \$1,139,300 to \$1,336,300. The administrative judge finds that the preponderance of the evidence supports adoption of a correlated value of \$1,250,000.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax years 2005 and 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$299,100	\$950,900	\$1,250,000	\$312,500

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.


Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 27th day of June, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Harry J. Skefos, Esq.
Clay Purdom, Esq.
Tameaka Stanton-Riley, Appeals Manager